

IN THE UNITED STATES DESIGNATED OFFICE (DO/US)

In Re the Application of:)	
)	
Horst KELLER, Ina BRUER, Gerald AMANNT,)	<u>SUPPLEMENTAL PETITION TO REVIVE</u>
and Jean-Luc BERNARD)	<u>UNINTENTIONALLY ABANDONED</u>
)	<u>APPLICATION PURSUANT TO 37 C.F.R. § 1.137(b)</u>
Int'l. Serial No.: PCT/EP2004/011061)	
)	
Int'l. Filing Date: 04 October 2004)	<i>Filed Electronically</i>
)	
Priority Date: 06 October 2003)	
)	
For: "INSULATING ELEMENT FROM)	
MINERAL FIBERS FOR SHIPBUILDING")	
)	
Atty. File No.: 2584SG-3)	

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The above-identified PCT application, designating the United States, became unintentionally abandoned after April 6, 2006, for failure to enter the U.S. national phase in a timely manner. Applicants have previously petitioned for correction of the national phase filing date pursuant to 37 C.F.R. § 1.10, including a petition presently pending before the USPTO to which a final disposition has not yet been received. Applicants file this Supplemental Petition to Revive for Unintentionally Abandoning the Application pursuant to 37 C.F.R. § 1.137(b) in the alternative to the presently filed petition pursuant to 37 C.F.R. § 1.10.

The entire delay in entering the U.S. national phase was unintentional. Once Applicants discovered that the April 6, 2006 deposit date had not been recorded for this Application, timely petitions pursuant to 37 C.F.R. § 1.10 were filed. See Exhibits A-C enclosed herewith. Applicants hereby respectfully request that the U.S. Patent and Trademark Office (DO/EO/US) now revive the above-identified application to permit national stage prosecution in the United States.

Enclosed please find the following:

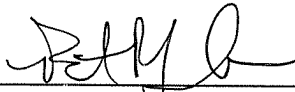
- 1) Electronic payment in the amount of \$750.00 pursuant to 37 C.F.R. § 1.17(m) for the fee for revival of an unintentionally abandoned application;
- 2) Exhibits A-C evidencing Applicants' diligence in petitioning the USPTO for correction of the National Phase filing date.

We believe that no additional fees are due with this communication. If any additional fees are due, however, please debit such fees to Deposit Account No. 19-1970.

We very much appreciate your consideration of this Petition. If further information is required in order to restore the application to pending status, please contact the undersigned attorney. Thank you.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: 
Brent P. Johnson
Registration No. 38,031
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-9700

Date: 6/13/07

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

KELLER et al.

PCT Application No. PCT/EP04/11061

PCT Filing Date: October 4, 2004

U.S. Serial No.: 10/575,018

Filed: April 6, 2006

Atty. File No.: 2584SG-3

For: "INSULATING ELEMENT FROM
MINERAL FIBERS FOR SHIPBUILDING"

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
P.O. Box 1450
Alexandria, VA 22313

Dear Sir:

The Decision of the U.S. Patent and Trademark Office dated July 21, 2006 is noted. The Office, in its decision, noted that of the three criteria set forth in 37 C.F.R. §1.10(d), Applicants have complied with numbers 1 and 2. With respect to the third criteria, however, the Office's opinion is that the prior petition did not sufficiently establish that the national stage papers were deposited in Express Mail prior to the last scheduled pickup on April 6, 1006. To comply with the Office's request, Applicants now submit evidence in the form of a Supplemental Declaration of Eddie Abeyta, Sheridan Ross P.C.'s designated administrator of patent filing correspondence. With such new evidence and in combination with the previously submitted petition and exhibits thereto, Applicants respectfully request the reconsideration and favorable grant of the present petition.

RENEWED PETITION UNDER
37 C.F.R. 1.10(d)

<p style="text-align: center;">CERTIFICATE OF MAILING</p> <p>I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO THE COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450</p> <p>ON <u>8/8/06</u></p> <p style="text-align: right;">SHERIDAN ROSS P.C.</p> <p>BY: <u>Bunda Carpenter</u></p>

EXHIBIT

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Applicants' counsel request the courtesy of a telephone call in the event any further questions or concerns require further discussion or elucidation. Applicants' counsel can be reached directly at (303) 863-2977.

No additional fees are believed to be owing, however, if such fees are due, please deduct them from Deposit Account No. 19-1970.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: 

Joseph E. Kovarik
Registration No. 33,005
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-9700

Date: 8/7/06

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

KELLER et al.

PCT Application No. PCT/EP04/11061

PCT Filing Date: October 4, 2004

U.S. Serial No.: 10/575,018

Filed: April 6, 2006

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For: "INSULATING ELEMENT FROM
MINERAL FIBERS FOR SHIPBUILDING"

RENEWED PETITION UNDER
37 C.F.R. 1.10(d)

CERTIFICATE OF MAILING

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BEING DEPOSITED WITH THE UNITED STATES
POSTAL SERVICE AS FIRST CLASS MAIL IN AN
ENVELOPE ADDRESSED TO THE COMMISSIONER FOR
PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450
ON 10/23/06

SHERIDAN ROSS P.C.

BY: Bunde Carter

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
P.O. Box 1450
Alexandria, VA 22313

Dear Sir:

The Decision of the U.S. Patent and Trademark Office dated September 27, 2006 is noted. In the Office's opinion, the prior petition did not sufficiently establish the third criterion. To comply with the Office's request, Applicants now submit evidence in the form of: a Declaration of Susan Willson, managing partner of foreign patent prosecution for Sheridan Ross, P.C.; a Second Supplemental Declaration of Eddie Abeyta, Sheridan Ross P.C.'s designated administrator of patent filing correspondence; a correspondence delivered to the foreign associate on April 7, 2006 confirming the filing of such application (Exhibit A); a facsimile confirmation of receipt of said correspondence delivered on April 7, 2006 (Exhibit B); a copy of the Express Mailing receipt for

EXHIBIT

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such application (Exhibit C); and, United States Postal Service records indicating receipt of such application by the USPTO with other applications deposited on April 6, 2006 (Exhibits D - K).

Applicants direct the Office's attention to Exhibit A, which is a copy of the correspondence delivered to Grosse Bockhorni & Schumacher ("GBS") on April 7, 2006 at approximately 1:49 p.m. This correspondence, which came in to existence within one day of the filing of such application, is believed to present corroborating evidence of the April 6, 2006 filing date. Applicants also direct the Office's attention to the declaration of Susan Willson, who confirmed the filing prior to signing the correspondence delivered on April 7, 2006, and the Second Supplemental Declaration of Eddie Abeyta, who is responsible for depositing Express Mail with the USPS, and as a matter of routine only does so once per day in the evening after 5:00 p.m. Any Express Mail deposited on April 7 would therefore not have been made prior to the 1:49 p.m. transmission of correspondence to GBS. Further evidence, in the form of USPS track and confirm search results, demonstrates that such application was received at the USPTO on the same day as other applications deposited by Mr. Abeyta on April 6, 2006 (See Exhibits D - K). This comports with Mr. Abeyta's statements that the case at issue was one of several collectively filed at the same time by Express Mail the evening of April 6, 2006.

The transmission report for the facsimile correspondence to GBS clearly shows it was sent at 1:49 p.m. on April 7 (See Exhibit A), confirming that the case was filed with the USPTO on April 6, 2006. This correspondence was signed by Ms. Willson, an attorney licensed in Colorado for over 30 years, and the statements contained therein were verified prior to delivery to GBS. This record was created within one day of the correct filing date of such application, and Applicants assert that this record meets the third criterion requested by the USPTO. Applicants believe this form of

evidence, having been reviewed and executed by a licensed attorney prior to delivery, presents even stronger corroborating evidence of the correct filing date than would the ministerial task of recording Express Mailing numbers and dates in a log book, which are typically performed by non-licensed staff.

Given this compelling corroborating evidence, the error here must properly be considered as being on the part of the USPS. It is Applicants belief that USPS employees may not fully understand the importance of the deposit date when Express Mail documents are deposited. For normal mail, to ensure delivery by the next business day, the last drop off time is typically around 3:00 p.m. It is believed that deposits made after 3:00 p.m. may be viewed as acceptably being processed the next day. USPS employees may not fully understand that the USPTO's procedures allocate the day of an Express Mail deposit as the official filing date for a patent application. A USPS employee accepting deposit of Express Mail after 3:00 p.m. would likely see no consequence of completing the Express Mailing receipt on the following day, particularly when the deposit is made during a time approaching the closing time for that location (e.g., here the deposit was at 6:22 p.m. and the USPS office closed at 7:00 p.m.)

In conjunction with the previous evidence submitted showing the peculiar fact that no time entry was entered on the Express Mailing receipt for the application at issue, it is suggestive that such application was not recorded accurately when it was received on April 6, 2006 (See Exhibit C).

If such application were recorded properly, the Express Mailing receipt would have included an actual time entry as is required by USPS employees accepting such mailing.

With such new evidence, and in combination with the previously submitted petitions and exhibits thereto, Applicants respectfully request the reconsideration and favorable grant of the

present petition. Applicants' counsel requests the courtesy of a telephone call in the event any further questions or concerns require further discussion or elucidation. Applicants' counsel can be reached directly at (303) 863-2977. No additional fees are believed to be owing, however, if such fees are due, please deduct them from Deposit Account No. 19-1970.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: 

Joseph E. Kovarik

Registration No. 33,005

1560 Broadway, Suite 1200

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(303) 863-9700

Date: 10/20/06

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

KELLER et al.

PCT App. No.: PCT/EP04/11061

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U.S. Serial No.: 10/575,018

Filed: April 6, 2006

Atty. File No.: 2584SG-3

For: "INSULATING ELEMENT FROM
MINERAL FIBERS FOR SHIPBUILDING"

) Group Art Unit:

) Examiner:

) Confirmation No.: 7058

) REQUEST FOR STATUS OF
) APPLICATION

) *Filed Electronically*

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The above-identified national stage PCT application was filed with the USPTO on April 6, 2006. Applicant respectfully requests information on the status of this application.

In the event the most recent correspondence mailed to the USPTO has not been received, please find enclosed a copy of the Renewed Petition under 37 C.F.R. 1.10(d) dated October 20, 2006 and mailed October 23, 2006, and accompanying exhibits A-K, along with the return postcard stamped received on October 25, 2006.

The examiner is invited to telephone the undersigned in the event that examination of the above-identified application may be expedited.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: Ian R. Walsworth

Ian R. Walsworth
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1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-9700

Date: May 10, 2007

EXHIBIT

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